Supreme Court, U.S.
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No. _____

IN THE
Supreme Court of the United States

ROBERT L. BRUMFIELD,

Petitioner,

v.

CYNTHIA J. BRUMFIELD,

Respondent.

On Petition for Writ of Certiorari
To The Illinois Supreme Court

PETITION FOR WRIT OF CERTIORARI

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Questions Presented for Review

Whether a spousal support obligation payable to a former spouse, as created by the laws of Illinois, which cannot be modified, discharged in bankruptcy or terminated by the payer and is enforced by the threat of criminal punishment, forced labor and civil sanctions, is peonage and servitude in violation of the Thirteenth Amendment to the Constitution of the United States of America and is, therefore, null and void.

Whether the laws of Illinois that govern the enforcement of spousal support violate the Thirteenth Amendment to the Constitution of the United States of America and are, therefore, null and void.

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Citations to this Case

Supreme Court of Illinois, Docket No. 100479, Order denying Petition for Leave to Appeal	216 Ill.2d 681
Appellate Court of Illinois, Fourth District, Docket No. 04-04-0909, order entered March 30, 2005	Unpublished (Ill.Sup.Ct.Rule 23)

Opinions Below

The Supreme Court of Illinois denied the Petition for Leave to Appeal without consideration of the merits of the issues presented by its order dated September 29, 2005.

The Appellate Court of Illinois, Fourth District, held that "Purely monetary obligations, whether based on ordinary commercial contracts or upon a relationship such as marriage or parenthood cannot be equated with peonage or slavery" (Appendix B page 5a). The Appellate Court ruled that spousal support does not violate the Thirteenth Amendment in its order dated March 30, 2005.

Statement of Jurisdiction

This Petition for Writ of Certiorari is timely filed within ninety (90) days of the date of entry of the order by the highest court of Illinois, the Supreme Court of Illinois, denying the Petitioner's Petition for Leave to Appeal on September 29, 2005.

In the Petition to Terminate Maintenance, or in the Alternative, to Modify Maintenance filed by Robert Brumfield in the trial court on June 11, 2004 (Appendix E) and in the Motion for Summary Judgment filed by Robert Brumfield in the trial court on October 12, 2004 (Appendix H), the validity of the statutes of the state of Illinois governing the authorization and awarding of spousal maintenance and the enforcement of spousal maintenance awards were drawn into question on the grounds that they were repugnant to, and a violation of, the Thirteenth Amendment to the Constitution of the United States of America. The trial court ruled against the Petitioner on October 14, 2004 (Appendix D).

Jurisdiction to review the Petition for Writ of Certiorari is conferred upon this Court by 28 U.S.C. § 1257(a). This petition presents an important question of federal law that has not been, but should be, settled by this Court.

Petitioner asserts that 28 U.S.C. § 2403(b) may apply. Notification as required by Rule 29.4(c) has been given to the Attorney General of the State of Illinois.

Constitution and Statutes Involved

I. Constitution of the United States, Amendment XIII, Section 1:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

II. Federal Statute involved: 11 U.S.C. 523 reproduced at Appendix K

III. Illinois Statutes involved reproduced in Appendix L to DD:

750 ILCS 5/502	750 ILCS 5/702
750 ILCS 5/504	750 ILCS 5/705
750 ILCS 5/505.1	750 ILCS 5/706.1
750 ILCS 5/507	750 ILCS 5/713
750 ILCS 5/507.1	750 ILCS 16/15
750 ILCS 5/508 (a) and (b)	750 ILCS 16/50
750 ILCS 5/509	750 ILCS 16/60
750 ILCS 5/510	750 ILCS 28/20
750 ILCS 5/511	750 ILCS 28 /35
750 ILCS 5/516	

Statement of the Nature of the Case

The issues presented by this Petition for Writ of Certiorari are: first, that spousal support, as enacted by the state of Illinois and in the context of this case, is repugnant to, and in violation of, the Thirteenth Amendment to the Constitution of the United States of America; and second, that the enforcement of spousal support by and under the laws of Illinois are repugnant to, and in violation of, the Thirteenth Amendment to the Constitution of the United States of America.

These issues are the principal subject matters raised by the Petitioner in his Petition to Terminate Maintenance or, in the Alternative, Modify Maintenance (Appendix F) and Motion for Summary Judgment (Appendix I) filed in the trial court. In a hearing held in the trial court on October 14, 2004, the trial court denied the relief requested by the Petitioner. A timely filed appeal from the trial court's ruling to the Appellate Court of Illinois, Fourth District, presented the said issues to that court.

The Appellate Court, Fourth District, denied the relief requested by the Petitioner on March 30, 2005. A timely filed Petition for Leave to Appeal to the Supreme Court of Illinois presented the said issues to that court.

The Supreme Court denied the Petition for Leave to Appeal without consideration of the merits of the issues presented on September 29, 2005. This petition timely follows.

Statement of Facts

Cynthia Brumfield (hereinafter called "Cynthia") and Robert Brumfield (hereinafter called "Robert") were married

for slightly more than twenty-one (21) years when they divorced in Illinois (Judgment of Dissolution of Marriage; Appendix C). In their divorce, Robert and Cynthia entered into a Marital Settlement Agreement which provided "that Husband shall pay to Wife the sum of $1,500 per month as and for the maintenance of Wife" (Paragraph 4, Marital Settlement Agreement; Appendix E page 16a). The Marital Settlement Agreement further provides "this agreement is non-modifiable" (Paragraph 51, Marital Settlement Agreement; Appendix E page 30a and 750 ILCS 5/502(f); Appendix L page 91a).

At the time Robert filed the Petition to Terminate Maintenance, the parties had been divorced slightly less than seven (7) years. From the date of the divorce until the filing of the Petition to Terminate Maintenance, Robert paid to Cynthia the sum of $123,000 in spousal support (Appendix F page 45a). Cynthia has a current life expectancy of thirty-five (35) years. Robert has a current life expectancy of twenty-eight and four tenths (28.4) years. If they both live their normal life expectancy, during his lifetime, Robert will have paid to Cynthia an additional sum of $511,500 in spousal support. Upon Robert's death, Cynthia will still own a claim against Robert's estate for spousal support payments due for her then remaining life expectancy which is the sum of $118,500 (Appendix F page 46a). If one adds the sums that Robert has already paid together with the amount to be paid during his lifetime and the claim against his estate, Robert will pay a total of $753,000 in spousal support to Cynthia. That sum is approximately $35,860 for every year that he was married. For every one year that he was married to Cynthia, Robert will have paid two years of spousal support. For a fifty-one (51) year old auto mechanic with a high school education, this is a staggering load.

Robert and Cynthia are the parents of two (2) children, Sonya Leigh Brumfield, born August 22, 1979, and Courtney Nicole Brumfield, born May 26, 1981. Both children of the parties are now married adults, emancipated and self-sustaining (Appendix F page 48a).

Robert and Cynthia have no current relationship except that at one time in the past they were married (Appendix F page 48a).

Argument

Historically, women were once little more than chattel property owned by their husbands. In Illinois, the Rights of the Married Persons Act, 750 ILCS 65/1 *et seq.*, first enacted in 1874, first allowed married women the right to own their own property, to sue or be sued in their own name, and possess and own their own income.

Society has evolved significantly over time. Same sex marriages are a sign of the changing morals of our society. The historical reasons of the infirmity of women and the legal inabilities of the women to care for themselves, contract for themselves, earn for themselves, are not apropos to same sex marriages or today's society. Why should one spouse, same sex or not, become the indentured servant to the other spouse simply because at one time in the past they were married? If adults are equal under the eyes of the law, neither one should be required to support the other and neither one should own the rights to the income and labor of the other.

In this case, the Illinois Appellate Court, Fourth District, opined that "purely monetary obligations, whether based upon ordinary commercial contracts or upon a relationship such as marriage or parenthood can not be equated with